In the High Court of Punjab and Haryana at Chandigarh

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(1) C.W.P. No.13544 of 2006

.....

Date of decision: 7.11.2006

Jagjit Singh Chandi and others

.....Petitioners

v.

State of Punjab and others

.....Respondents

....

(2) C.W.P. No.13595 of 2006

.....

The New Amritsar Residents Welfare Association (340 Acres Scheme)

.....Petitioner

v.

State of Punjab and others

.....Respondents

....

Coram: Hon'ble Mr. Justice S.S. Nijjar, Acting Chief Justice
Hon'ble Mr. Justice S.S. Saron

Present: Mr. N.K. Banka, Advocate for the petitioners.

Mr. A.S. Grewal, Additional Advocate General, Punjab for respondents No.1 and 4.

Ms. Rajni Gupta, Advocate for respondents No.2 and 5.

Mr. V.K. Sandhir, Advocate for respondents No.3 and 6.

Mr. S.K. Sandhir, Advocate for respondent No.7.

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This order will dispose of the above two writ petitions filed by Jagjit Singh Chandi and others (CWP No.13544 of 2006) and the one filed by the New Amritsar Residents Welfare Association (CWP No.13595 of 2006) as the facts in both the petitions are similar and the relief sought is primarily the same. The facts, however, are taken from C.W.P. No.13544 of 2006 filed by Jagjit Singh Chandi and others.

The petitioners seek issuance of a writ in the nature of mandamus directing the Improvement Trust, Amritsar (respondent No.2) not to allow Gammon India Limited (respondent No.7) to instal its Hot Mixing Plant which includes installation of Chimney, Cutting Machines, Cranes, Heavy Mixing Boilers, Heavy Transportation, Jhuggis for labourers in thousands etc. on plot lying within the residential area of New Amritsar Township marked with red in Annexure-P.3 in violation of Punjab Government Gazette notification sanctioned Scheme of New Amritsar dated 17.1.1996 (Annexure-P.2) and in violation of Sections 43 and 55 of the Punjab Town Improvement Act, 1922 (`Act' – for short); besides in violation of anti-pollution laws and laws made and declared by judgments of the Hon'ble Supreme Court of India as well as the High Court. A further direction is prayed for directing respondents No.2 to 6 to place on record any law, policy or order in pursuance of which respondent No.7 is being allowed to instal its plant at the cost of health of the residents of New Amritsar and for quashing the permission, if any, granted. A still further direction is sought to restrain respondent No.7 from using the land of New Amritsar.

The petitioners Jagjit Singh Chandi and others are residents of

New Amritsar. The New Amritsar Residents Welfare Association-petitioner in the connected writ petition, it is stated, has duly authorised its President to file the writ petition vide resolution No.14 dated 24.8.2006. It is stated that the New Amritsar is a residential colony situated on the G.T. Road, Amritsar from Jalandhar to Amritsar. The New Amritsar Residential Colony has been set-up under a Scheme in accordance with the provisions of the Act. According to the petitioners there can be no deviation from the sanctioned Scheme which respondents No.1 to 6 are bound to follow. It is submitted that in terms of the Scheme it is clear that the land reserved for public purposes or for any other purposes as mentioned in the lay out plan shall not be used for any other purpose than for what it is kept for. The petitioners on 6/7.8.2006 saw big cranes in the middle of the locality of New Amritsar. On making enquiries they were told that the cranes belong to Gammon India Limited (respondent No.7) which is a construction company. The said Company has been assigned contract for making elevated roads in Amritsar. The period of contract is for two years. For the construction of the elevated roads, the Company needs a big plot and the Chairman (respondent No.5) of the Improvement Trust is interested to give a plot to Gammon India Limited (respondent No.7). The SDO of respondent No.7 company informed the President of the Residents Association that permission had been given by the authorities regarding use of the land at New Amritsar for installation of Hot Mixing, Cutting and other plants including residential Jhuggis for the labourers etc. It has been informed that the Company had opted for a plot on the main road of the entry to the locality from G.T. Road. This has been depicted as red encircled area shown in the original drawing/map (Annexure-

P.3) approved with the Scheme. The petitioners aggrieved against the setting-up of the Hot Mixing Plant and the installation of other items, have represented against the said action to various authorities. However, there being inaction on the part of the respondents authorities they have approached this Court.

On notice of motion, written statement has been filed by the Municipal Corporation (respondent No.3) and the Mayor, Amritsar Municipal Corporation (respondent No.6). Besides, separate written statement has been filed by Improvement Trust, Amritsar (respondent No.2) and the Chairman, Amritsar Improvement Trust (respondent No.5). A short reply has been filed by the Deputy Commissioner, Amritsar (respondent No.4). Besides, Senior Project Manager of respondent No.7 Gammon India Limited has filed reply on its behalf. In the replies submitted by the Municipal Corporation, Amritsar and the Mayor, Municipal Corporation, Amritsar (respondents No.3 and 6), the Improvement Trust, Amritsar and the Chairman, Amritsar Improvement Trust (respondents No.2 and 5) and also by Gammon India Limited (respondent No.7), it has been stated that no Hot Mixing Plant is being set-up at the allotted site and only a casting plant was being set-up temporarily for making concrete slabs. The plant is fully computerized and pollution free. It has rather been stated that the petitioners have not come to the Court with clean hands and have tried to mislead this Court. In the written statement filed by the Amritsar Improvement Trust (respondent No.2), it is stated that the Scheme framed under the Act is not being altered. The land which was lying vacant under the Scheme for public purposes was being used by Gammon India Limited (respondent No.7) on

temporary basis. The Municipal Corporation (respondent No.3) has given the contract to Gammon India Limited (respondent No.7) for construction of elevated road which will lead to Sri Harmandir Sahib. It would regulate the rush of traffic to Golden Temple. The Deputy Commissioner (respondent No.4) has denied that any representation was submitted to him. In any case, it is submitted that he is not the competent authority under the Act to implement the Scheme and neither is he the Supervisory Authority.

After hearing learned counsel for the parties and giving our thoughtful consideration to the matter, it may be noticed that the present petitions have been filed in the nature of public interest litigation. The various allegations of setting-up of Hot Mix Plant and putting up installations, it is stated, are for temporary purposes of construction of elevated road leading to Sri Harmandir Sahib to avoid traffic rush. The casting plant which is being set-up is for making concrete slabs. It is fully computerized and pollution free. Besides, it has come on record that the site in dispute is the only land available nearest to the project. The said site was earlier used on several occasions for setting up of Pandals for celebration of 400 years of Sri Harmandir Sahib as well as for conducting political rallies etc. It is also stated by the Municipal Corporation, Amritsar (respondent No.3) that Gammon India Limited (respondent No.7) is an international firm and it is duty bound to take care of the residents of the area and it has undertaken of not carrying out any health hazard activities. Besides, 200 labourers have to reside and a proper arrangement would be made by the Company for which the residents of the area need not worry. The setting-up of the elevated road leading to Sri Harmandir Sahib is an avowed project of

the respondent-authorities and it is for the general welfare of the public at large and for all those who come to pay obeisance at the holy temple. The larger public interest, therefore, requires the setting-up of the elevated road to provide smooth flow of traffic and to avoid traffic rush. The installations that have been set-up are temporary in nature which would at the most only cause temporary discomfort to the residents of the area and the petitioners. It would, in any case, not be a hazard on long term basis as is sought to be made out by the petitioners.

For for foregoing reasons, we find no merit in these petitions and the same are accordingly dismissed.

(S.S. Nijjar)
Acting Chief Justice

November 7, 2006. **(S.S. Saron)**
Judge

hsp

Whether fit for indexing: Yes